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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/610,955	07/01/2003	David Myr	MAK-104US	5768
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RATNERPRESTIA			VIG, NARESH	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/610,955	<b>Applicant(s)</b> MYR, DAVID	
	<b>Examiner</b> Naresh Vig	<b>Art Unit</b> 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is in reference to telephone conversation with applicant's representative that they had not received the corrected office action for the office action mailed 20 September 2006. Claims 1 – 12 are pending for examination.

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 – 12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. For a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention is useful for determining appraisal values of a property, however, it does not produce concrete results because the invention requires to programming of the device used by the user after the user has inputted the influence factors for different appraisal approaches. Two user using the invention can program the device differently which will produce different results.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 – 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In claims 1 and 12, applicant added the limitation "performing nonlinear programming with a predetermined objective function" which is not supported by the disclosure originally filed 01 July 2003.

Claims 2 – 11 claim dependency on claim 1.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 – 12 are rejected under 35 U.S.C. 112, second paragraph, as being vague and indefinite because it is not clear whether programming after the inputting of influence factor is programming of the device, or, data entry of property related information.

***Claim Rejections - 35 USC § 103***

Claims 1 – 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robbins US Publication 2001/0039506 in view of Modern Real Estate Practice by Galaty et al. hereinafter known as Galaty.

Regarding claim 1, as best understood by examiner, Robbins teaches system and method for appraising a real estate property. Robbins does not teach using sales comparison approach, an income capitalization approach and a cost approach as different types of appraisal approaches. However, Robbins teaches that In determining the market value of a subject property an appraiser generally considers three separate approaches to value; the Cost Approach, the Income Approach, and the Sales Comparison Approach [Robbins, 0080]. Galaty teaches that appraisers use three basic valuation techniques: the sales comparison approach, the cost approach and the income approach as checks against each other for narrowing the range within which the final estimate of value falls [Galaty, page 304, last paragraph].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Robbins and implement appraisal using income approach and cost approach to make the appraisal more useful by checking valuations from different approaches against each other for narrowing the range within which the final estimate of value falls.

Robbins in view of Galaty teaches capability for:

inputting influence factors and a range of influence factor values for each of different types of appraisal approaches [Galaty, page 313; Robbins, [0032], claim 56]

performing nonlinear programming with a predetermined objective function that uses each of the different types of appraisal approaches according to the influence factors and the range of influence factor values: and

determining an optimal range of appraisal values for the real estate property from the performed nonlinear programming according to each of the different types of appraisal approaches [Galaty, page 305-313].

Presenting on output means the optimal range of appraisal values for the real estate property [Galaty, page 133; Robbins, claim 56];

Regarding claim 2, as best understood by examiner, Robbins in view of Galaty teaches capability for optimizing the ranges of influence factors values of each of the different types of appraisal approaches.

Regarding claim 3, as best understood by examiner, Robbins in view of Galaty teaches capability for eliminating all discrepancies or outliers of the influence factors.

Regarding claim 4, as best understood by examiner, Robbins in view of Galaty teaches capability for obtaining a respective optimal range of appraisal values for each of the different types of appraisal approaches.

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Regarding claim 5, as best understood by examiner, Robbins in view of Galaty teaches capability for performing a feasibility study to determine whether the optimal range of appraisal values meets predetermined economic return requirements for the real estate property.

Regarding claim 6, as best understood by examiner, Robbins in view of Galaty teaches capability for performing a sensitivity analysis using the influenced factors for each of the different types of appraisal approaches together to determine a sensitivity of the optimal range of appraisal values to changes in each of the influence factors.

Regarding claim 7, as best understood by examiner, Robbins in view of Galaty teaches capability to reconcile the optimal ranges of appraisal values for each of the different types of appraisal approaches.

Regarding claim 8, as best understood by examiner, Robbins in view of Galaty teaches capability to search for combinations of the influenced factors that automatically produce a same optimal value as for the influence factors individually

Regarding claim 9, as best understood by examiner, Robbins in view of Galaty teaches capability for performing a highest and best use analysis to determine a financial feasibility criteria for each separate use;

Regarding claim 10, as best understood by examiner, Robbins in view of Galaty teaches capability wherein the predetermined objective function uses project periods that are considered in one of the different types of appraisal approaches

Regarding claim 11, as best understood by examiner, Robbins in view of Galaty teaches capability for calculating different capitalization rates that are considered in one of the different types of appraisal approaches.

12, A system for appraising a real estate property, the system comprising:  
an input for providing influence factors and a range of influence factor values for each of different types of appraisal approaches;

a calculator for 1) applying a nonlinear optimization to a predetermined objective function that uses each of the different types of appraisal approaches according to the influence factors and the range of influence factor values and 2) determining an optimal range of appraisal values for the real estate property from the applied nonlinear optimization according to each of the different types of appraisal approaches; and

an output for presenting the optimal range of appraisal values for the real estate property,

wherein each of the different types of appraisal approaches are a sales comparison approach, an income capitalization approach and a cost approach.



### ***Response to Arguments***

Applicant's arguments and concerns are for amended claims which have been responded to in response to amended claims.

### ***Conclusion***

Applicant is required under 37 CFR '1.111 (c) to consider the references fully when responding to this office action.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Applicant is required under 37 CFR '1.111 (c) to consider the references fully when responding to this office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is (571) 272-6810. The examiner can normally be reached on Mon-Thu 7:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Naresh Vig  
Examiner  
Art Unit 3629

May 22, 2007